



**SHERWOOD CITY COUNCIL MEETING MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**February 18, 2014**

**REGULAR CITY COUNCIL MEETING**

1. **CALL TO ORDER:** Mayor Middleton called the meeting to order at 7:02 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Mayor Bill Middleton, Council President Linda Henderson, Councilors Dave Grant, Krisanna Clark, Bill Butterfield and Matt Langer. Councilor Robyn Folsom arrived at 7:03 pm.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager, Tom Pessemier Assistant City Manager, Ty Hanlon Police Captain, Julia Hajduk Community Development Director, Julie Blums Finance Director, Craig Sheldon Public Works Director, Bob Galati City Engineer, Planning Manager Brad Kilby, Scott McKie Building Official, Rich Sattler Utility Manager, Paul Ortiz Program Analyst, Colleen Resch Administrative Assistant and Sylvia Murphy City Recorder. City Attorney Pam Beery.

Mayor Middleton stated that the agenda would be amended to move Resolution 2014-009 from Consent to New Business. No objections from the Council were received. Mayor Middleton addressed the amended Consent Agenda and asked for a motion.

**5. CONSENT**

- A. Approval of February 4, 2014 City Council Meeting Minutes
- B. Resolution 2014-007 Appointing a Budget Officer for the FY14-15 Budget
- C. Resolution 2014-008 Authorizing the City Manager to sign the 2014 IGA with the Portland Police Bureau for the purposes of participation in the Regional Justice Information Network
- E. Resolution 2014-010 Authorizing the Marjorie Stewart Senior Center name change to the Marjorie Stewart Center

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT THE CONSENT AGENDA AS AMENDED, SECONDED BY COUNCILOR BUTTERFIELD. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed the next agenda item.

**6. PRESENTATIONS**

## A. Transportation System Plan (TSP) Update

City Engineer Bob Galati came forward with consultant Chris Majeski, Transportation Engineering Consultant with DKS. Mr. Majeski presented information to the Council, (see record, Exhibit A) and provided a brief overview of a transportation plan update. He said the key elements they look for is going out 20 years in the future with a master plan, looking at public facilities, public roadways, and making sure we can accommodate 20 years of growth. He said as this is done, they come up with improvement projects and try and match those with City goals and said the challenging part of this is balancing all the different modes of traveling into Sherwood, walking, biking, transit and driving to ensure it is equitable for all types of users and how to make it an efficient system, balancing revenue streams with expenditures to make the improvements. He said the pieces that go into the master plan are a plan for each mode of travel, i.e. a pedestrian plan, a biking plan, etc. He said all of these have a core element and there are also specifics for finance strategies as well as implementing code. He said we start with the City's goals and objectives and develop evaluation criteria based on the goals and use that to select with the committee what projects make the most sense to plan for. He explained the requirements for doing this and said there is a State OAR, stating every City must have a transportation system plan and it is the transportation element of your comprehensive plan and is a long range look at what is needed to manage facilities and provide services to all users. He explained the benefits of the plan as how to spend funds, understanding the big picture of future improvements, leveraging projects to allow others to be completed and balancing limited revenue streams. He explained an adopted plan helps with pursuing grants. He provided plan background and said the first plan was adopted in 2005 and said things have changed since then and said the 20 year horizon was the year 2020 and we are nearing this and are now looking at 2035. He said there have been amendments to the plan since 2005, such as Tonquin Area Plan and Adams Ave. North Plan. He said since 2005 the City has grown and population has increased. He explained another driving force to this update is a Metro requirement, with new local regional agency requirements. He referenced the exhibit and explained Metro has always had a Regional Transportation Plan and recently completed a Regional Transportation Functional Plan and this has new requirements local agencies must follow including a timeline to update plans and Sherwood is currently in that timeline. He explained Metro requirements aim at managing the system and they want you to focus on intersection improvements, signal upgrade or turn lane upgrade, and make the most of your current network before regional projects are brought forward, such as widening a corridor to 5 lanes. He said this is focused on prioritizing funds and safety and minimizing maintenance costs. He said they have introduced system measures we have to look at such as monitoring freight mobility on Tualatin-Sherwood Road and Hwy 99W, how does the City's plan affect freight movement during peak hours and is there a complete grid of major roadways that allows efficient circulation. He said to go about meeting these needs, their scope of work process is to assess what the infrastructure is today, how well it works, and then with a 20 year forecast with growth occurring in Sherwood and the surrounding urban growth area, how do the needs change. He stated we identify projects to address the needs and prioritize them and provide a recommendation and go through an adoption process. He said it's matching projects with needs. He explained the public involvement process is a key part and said they formed a citizen advisory committee to work with them and hold evening meetings, they have discussed community needs and the members are currently assisting DKS evaluate potential projects. He said they have held two open houses to date, posted information on the City website and in the Sherwood Gazette and said they are scoped for three briefings between the Planning Commission and the Council moving towards the adoption process. He said there are also the public hearings prior to adoption. He said they have accomplished identifying the needs for the existing year and looking 20 years in the future. He said we are doing this for all modes and said the graphics are tools they are

using with the committee and the public to show issue areas. He referenced a map in the exhibit and explained. He stated the areas of the map in red, indicated high traffic areas for walking and bicycling and motor traffic in peak hours. He said they are looking at every intersection in the community to try and identify hot spots.

He said the needs identification piece has been done and the next step is to identify solutions. He said to do this they took all the projects in the TSP and all projects identified in other concept plans or regional efforts, including the County and Metro and screened these to identify Sherwood's needs. He said to evaluate and prioritize they had the Citizen Advisory Committee help them select evaluation criteria from the City's transportation goals and policies and scored the projects. He said this helped to prioritize the projects.

He explained the final steps to the screening process is back to the Metro requirements to identify things that are lower in cost, operation based such as traffic signal enhancements before we look at major corridor widening projects. He said we currently have the entire project list and have gone through a technical evaluation of how that aligns and are working with their advisory committee and have shared the draft list with the public. He said that in this process we have begun to flag what they think a subset of projects might be that fit within the City's revenue constraints over the next 20 years. He said they are looking at a few scenarios, one that is more constrained is a back cast of the last 5 years and what is the City's average annual revenue for transportation and if this is projected out 20 years, how much money will the City have to work with, he said this is about \$11 million for City money. He said another view is to acknowledge as a region there are urban growth areas outside the City limits that are part of the Sherwood planning area and if that was annexed in and if that development occurred and there were SDC's or transportation development taxes collected, that generates additional revenue and that scenario would have about \$60 million to apply towards capital improvement projects.

He explained they are doing this work through an ODOT grant and that grant expires at the end of June 2014 and said this is the target for the adoption and said they are moving quickly to refine the list and put a draft plan together that can be circulated and receive comments on. He said in late May early April we would start the public hearing process for potential adoption. He offered to answer questions and Julia Hajduk Community Services Director added that this is something that was originally scoped as a work session and based on input from the Mayor we wanted to give the public and the Council an opportunity to provide feedback.

Mayor Middleton asked for Council questions, none were received.

Mayor Middleton addressed the next agenda item.

## **7. NEW BUSINESS**

### **A. City Recorder Performance Evaluation**

City Manager Gall stated the Council has received a document tonight, (see record, Exhibit B) and asked Pam Beery the City Attorney to explain. He stated the staff report and resolution addresses the evaluation only and the employment agreement will come back to the Council at a future meeting.

Pam Beery recapped and provided background information and stated the City Recorder is one of four positions in the City Charter that reports to the City Council and it's the Council responsibility to evaluate the performance and determine terms of employment. She said pursuant to the process and criteria the Council developed they compiled an evaluation form, received feedback from the Councilors and said the attachment is a compilation of that feedback received in executive session and in writing. She said if the Council approves the resolution tonight that would approve the evaluation and conclude the evaluation process. She said we are in the process of preparing an updated employment agreement, she offered to answer Council questions.

Mayor Middleton confirmed the legislative number for the Resolution as 2014-012 and with no Council comments, the following motion was received.

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT RESOLUTION 2014-012, SECONDED BY COUNCILOR FOLSOM, MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Council President Henderson confirmed with Ms. Beery that the Council would see the updated contract prior to their next meeting. Ms. Beery replied yes and said it's almost completed and the employee would like to review the agreement. She explained it would probably be listed under the Consent Agenda and hopefully be part of the next meeting packet.

Mayor Middleton addressed the next agenda item.

**B. Resolution 2014-011 Amending the FY 2013-14 Fee Schedule to comply with State Building Codes regarding Investigative Fees**

Building Official Scott McKie came forward and recapped the information provided in the staff report.

Mayor Middleton confirmed the fee is for those who are in violation of not getting permits and is not a new fee being imposed. Scott replied this is correct and explained the code allows the building official to assess a penalty, it is not a mandatory penalty, it's to the discretion of the building official.

The Mayor asked for Council questions, with none received he asked for a motion.

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO ADOPT RESOLUTION 2014-011, SECONDED BY COUNCILOR BUTTERFIELD, MOTION PASSED 7:0. ALL MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed the next agenda item.

**C. Ordinance 2014-003 Temporarily Prohibiting the Location of Medical Marijuana Facilities within the City of Sherwood and Declaring an Emergency**

Julia Hajduk Community Development Director explained the ordinance is to temporarily prohibit the siting of medical marijuana facilities and said at this time it's a gray area and is not clearly allowed or not allowed in the code, but beginning March 1<sup>st</sup> there will be provisions through the state to allow these facilities to be registered and to give us time to evaluate where these facilities would best be sited, zoning wise and whether or not there should be any additional or different regulations, such as parking

regulations or sign criteria. She said to allow time to do this staff is recommending making it clear that they are not allowed until we are able to get the legislation passed. She said many jurisdictions are doing something similar and we are proposing 150 days. She said she understands public testimony is at the Council discretion.

Councilor Grant asked at the end of the 150 days, does it goes away. Julia confirmed it is a temporary prohibition and after 150 days it will not be prohibited if we don't have something clearly in place there will be the continued gray area.

Mayor Middleton asked to receive public testimony, with none received the following motion was made.

**MOTION: FROM COUNCILOR GRANT TO READ CAPTION AND ADOPT ORDINANCE 2014-003, SECONDED BY COUNCILOR LANGER, MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed Resolution 2014-009, moved from the Consent Agenda.

**D. Resolution 2014-009 Authorizing the City Manager to enter into a contract with General Pacific, Inc. to supply an Advanced Metering Infrastructure (AMI) System**

City Manager Gall stated the City has been working on this project since 2005 and the Council has people that would like to provide comments on the resolution. He informed the Council that the current budget has \$300,000 budgeted for this project. Craig Sheldon Public Works Director stated in 2005-06 the City was looking at partnering with PGE to bring AMI to the City, known as Smart Meters. He said PGE moved forward with their project and throughout the City we have AMI PGE meters. He said with the water project at that time, the City choose not to partner with PGE. He said in 2008 we brought utility billing in house and explained the workload increase of going to a monthly billing cycle. He said in 2008 we looked at efficiencies of the system and in 2011 at the Council Goal Setting session we discussed initiating an AMI or AMR program and with the current billing issues we were not comfortable moving forward. He said in the last budget process we asked for \$300,000 to move forward with the project and held a Council work session. He listed other jurisdictions that have the AMI or AMR programs and said AMI is more efficient than AMR and doesn't require a drive by reading of a meter.

Craig said security wise the City has an identity theft policy and explained the information coming through the system is no different from what we see now. He explained the benefits to the customer and the City. He said in November we issued and RFP for the entire system to lock in a price over a multiyear contract. Craig explained our Water Management Conservation Plan which calls out water loss and explained the requirements. He explained the history of the plan and lack of having data information. He said the City does water audit through the state and this system will help do this and the system would produce more data for future Councils to set rates. He explained the various other plans the City has in place and said a water meter plan is no different. He explained AWWA (American Water Works) standards. He explained the growth in Sherwood and meters coming to a life of 20 years and said the City needs to do something about this with moving forward with a plan or wait for the system to not be accurate. He said the AMI or AMR systems are not new to the water industry and explained NW Natural Gas is read through an AMR system.

He explained the RFP process the City took in November and said we had 4 vendors apply. He said today we are asking for \$1.3 million over the course of 5-6 years and said it will come through the O&M

(Operation and Maintenance) Budget, it is not a capital project and if we don't have the funds we aren't going to proceed. He said we need to do some sort of meter replacement anyways. He explained the cost and cost savings with the current meter reading processes and efficiencies. He explained it is about a 7 year payback and said there are a lot of fixed costs in the water business. He said these are ways to invest to be able to save money in the future.

Craig explained the reason for the \$1.3 million in the resolution is because this is over a period of time. He said if we don't have the money in the budget then we don't move forward and said the City has multi-year contracts throughout the City.

Councilor Grant asked Craig to explain the concerns regarding security. Craig commented of concerns regarding obtaining people's information, seeing into people's homes, seeing through a water meter. Craig said our current meter reader could gather more information now and this is not what we want to do, we want to know the consumption. Craig spoke of conservation and needing data and currently the City doesn't have the data. He explained the system as being an internal system and not a third party and the City would be installing the meters.

Councilor Folsom asked for definition of AMI and AMR, Craig replied (Automatic Meter Reading) is a drive by type of approach and AMI (Automatic Meter Infrastructure) System. He explained some of the features of AMI and the efficiencies of automatic reads and explained the expanded features that are available and said the City is not looking at the extra features. Ms. Folsom asked regarding NW Natural Gas and PGE currently having these systems in the City, Craig confirmed and explained. Ms. Folsom asked regarding the aging meters and resources and needing to do something. Craig replied and explained some businesses have vaults that require two staff members to conduct a reading, the requirement of two staff is to meet OSHA standards. He said in the last 1 and ½ years, he estimates the City changed out 170 meters and said the meters that were installed within the last ten years will only need to change out the registers and we will still get another ten years of life out of the meter. He said it's the older meters that are from the 1990's that are still in the ground and have met their life expectancy. Ms. Folsom commented regarding inefficient readings and ability to detect leaks. Craig agreed and commented on benefits to the customer.

Councilor Butterfield asked if Craig was planning on using a hybrid system. Craig stated that the AMI is the better system and eventually will tie everything together and will make data collection easier for everyone. He said the main focus is to get the program up and save money. Councilor Butterfield asked if 90% of the meters are in the ground and said they don't have audio or video. Craig commented that there will be a radio inside the meter box and you can determine how often you want it recorded. Councilor Butterfield asked what we are saving. Craig replied about \$88,000 in meter reading costs but you still have to do some customer service. He commented on the savings of benefits, overhead, salary and replacement vehicles. He noted that it is somewhat green with a lower carbon footprint. He said there will be some billing cost savings. He stated they will not eliminate a position but use that position in other areas and they are not planning on coming back in the future asking for another position. Councilor Butterfield asked if that would remain a full time position. Craig said yes but with only 1/10 of the time for meter reading.

Council President Henderson asked Craig to explain how General Pacific Inc.'s software will integrate with our system. Craig said that was part of the criteria and he compared the systems that were considered and said their system is more proven than the others.

Mayor Middleton asked for public comment.

Kurt Kristensen, Sherwood resident came forward and provided a document to the council (see record) and discussed his experience with valves and putting electronics in the ground and would not recommend this and suggested using a pole system. He said this may be the way to go but we need a solid pilot project in house and he is not convinced with outsourcing and discussed the downfalls. He commented on security issues that we have had with how clever hackers have become and he would not want too many outside contractors to have an access to Sherwood. He suggested a 3 to 5 year pilot project in house and to move slowly ahead. He is not convinced there are savings in this gimmick and noted that they are not going to abolish a position. He said some of these projects with electronics that turn out to be more not less. He said in 2005 they were promised reasonable water rates and we have not had that and said there are more increases coming. He suggested being prudent and using the money to pay down the loan balance. He commented on how high his water bill is in the summer and asked the Council to factor all that in.

Neil Shannon, Sherwood resident approached the Council and said he is a member of the Budget Committee and was at the meeting where the \$300,000 was added to the water bureau budget. He said the Budget Committee does not approve of the use of the AMR system and said they allocated funds based on the water bureau request for funds to justify the use of the AMR system. He said he has attended the work sessions and is familiar with what is being presented. He said the benefits and pay back are not there and said 7 years is not very good and he questions the pay back analysis and there is no labor reduction although there may not be future labor costs. He said Craig indicated that if they did not fund the ARM system they would need a contingency of \$12,000 for enhanced maintenance of the existing system. He said Craig testified at the Budget Committee meeting when asked about leaks he stated they have few leaks. He is concerned about privacy not so much about the City misusing the data but it would allow a third party to read the data and they could publish that data or misuse it and that would not be secure. He expressed concern that the City is acting as a utility but has no liability. He referred to an email he sent and said he does support the concept of replacing as many as 350 meters that are ¾ inch or larger but he seriously questions replacing 4500 residential meters of 5/8 inch diameter.

Nancy Taylor, Sherwood resident came forward and said that she opposes the AMI only because as a rate payer and if paying high rates she would like a human being to benefit from it. She commented that water rights will be the conversation of the future and we are not talking about that.

With no further public comments Mayor Middleton asked the Council for questions.

Councilor Butterfield commented about technology and hackers being a part of the world we live in and said he is not concerned about this technology and the security of the system.

Mayor Middleton clarified that the meters staff will be putting this on, are the meters that would have to be replaced anyways, so it is kind of a pilot program. He asked if it doesn't work to our satisfaction we are not committed to the million. Craig said it is pending our budget and said we are not spending the money if it is not there. He commented that they are putting this out over five years which is why the payout is 7 years. He noted that they will change out those meters that they are having issues with and the ones with registers that are easy to change. He said they are also going to look at replacing the larger meters to save on confined space entry. Mayor Middleton said he thought it was a good idea.

Finance Director Julie Blums added that when they brought the rate study forward this entire project was contemplated in the study to be done over a period of time and it is not an additional project that would raise those rates.

Councilor Clark commented that it is a multiyear contract but clarified that it is a no obligation contract. Craig said it is no different than other multiyear contracts and if we are dissatisfied there is language that we can get out of the contract.

Mayor Middleton clarified that Craig would bring back results next year. Craig said yes and noted that they have done tests and it works and he feels comfortable with the system.

Councilor Clark stated that we should start the project as budgeted as a pilot project and find out if it is feasible.

Councilor Langer asked about other municipalities that use this system. Utility Manager Rich Sattler commented on the research they have done and said they have had good feedback and they are seeing those efficiencies.

Councilor Henderson asked Julie to comment on the rate study she mentioned earlier. Julie said that last fall they completed the water rates study and they recommended a 1% increase and Council chose to forego that increase and wait for the master plan to be completed then reevaluate the rates. She said part of the study was to determine what are the operational needs and what are the capital needs and this project was part of the analysis.

Councilor Henderson asked Rich if any community has completely automated their system or are they all implementing in phases. Rich said Gresham is completely automated and received a grant that obligated them to put it in in one year. He commented on the benefits of safety and reduction of injuries in the field. He said the system has a 20 year warranty and in the first 10 years 100% replacement, so there is good backing on the product.

With no other discussion, the following motion was received.

**MOTION: FROM COUNCIL PRESIDENT HENDERON TO ADOPT RESOLUTION 2014-009, SECONDED BY COUNCILOR LANGER, MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Mayor Middleton addressed the next item on the agenda and the City Recorder read the public hearing statement.

## **8. PUBLIC HEARINGS**

### **A. Ordinance 2014-004 Approving an amendment to the Transportation System Plan and Comprehensive Plan regarding extension and designation of SW Langer Farms Parkway north of Highway 99w and West**

Community Development Director Julia Hajduk said this is a legislative hearing but it does have an applicant and said at the Planning Commission we follow the same hearing schedule as a quasi-judicial where the applicant has 30 minutes to present after the staff report to be split between opening remarks



and a rebuttal at the end. She said she recognizes this is a long time at a Council Meeting and recommended Council give the applicant the opportunity to come forward after Brad gives the staff report and briefly discuss anything Brad did not mention and then provide a few minutes for rebuttal.

Planning Manager Brad Kilby approached the Council and provided a presentation (see record, Exhibit C) on PA 13-03 which is a proposal from Washington County to basically put lines on the transportation system plan map and said it will give direction to the property owner of regulatory certainty as the property develops in the future that says this is the facility the City expects will be constructed on that as you develop on your property. He referred to the Site Aerial map and said the property is west and north of Home Depot at the signal intersection. He said there are two accesses to SW Roy Rogers Road but neither has access onto Hwy. 99W and that is why they have not been able to develop. He said when widening Roy Rogers Road the County realized it creates conflict to the current accesses and it is a full access and essentially you could come out of the property and turn left crossing traffic. He stated the property is zoned commercial and referred to the Property Lines map and said to develop the rear portion of the property they have to annex into the City but nobody will be interested in developing until they understand the access. He said the County wants to designate it a collector in the TSP and by designating a collector as opposed to a local it gives the owners the opportunity to take their traffic out to the signalized intersection, and then they can ask for transportation credits for building that facility and for a benefit to the City, having it designated as a collector. He said as they develop out intensely they will generate quite a bit a traffic due to the zoning. He referred to the Zoning map and said if brought into the City it would have a similar commercial designation. He said the Planning Commission recommended after two hearings on December 10 and January 28 to adopt the legislation and put this on the map. He referred to the Functional Classification Plan map and explained at the intersection you would see the dash line. He commented on the reference to Adams Avenue Concept Plan and said there was action by Council in 2011 to redesignate Adams Avenue as Langer Farms Parkway. He referred to property access consideration and said the County has proposed this for safety and to provide access. He noted the forecasted traffic evaluation is 5000 daily trips which is a worst case scenario and it would warrant a collector. He said it is not likely because we still are suburban.

He commented on the issues raised at the Planning Commission meeting. He said nearby residents were concerned about a possible access across the ravine and adjacent to Hunter Ridge and the Wildlife Refuge and said it is not physically or financially feasible. He said this proposal is not proposing to extend it across the ravine. He stated the Planning Commission is recommending that the Council approve the proposal and place the collector onto the City's TSP functional classification map and said that is staff's recommendation as well.

Mayor Middleton asked who owns the property that he has referred to with the ravine. Brad said part of it is federally owned and referred to the location of the Anderson property and the power lines and said achieving the forecasted 5000 daily trips is way down the road. He referred to the other properties and said it may be in probate but it wasn't clear when he looked at the County documents.

Mayor Middleton asked the applicant to come forward.

Stefanie Slyman with Harper Houf Peterson Righellis, Inc. approached the Council as the applicants' representative and introduced Dan Erpenbach of Washington County as the applicant. She said in July they met and held a public meeting that was noticed to property owners and residents within 1,000 feet of the subject property. She stated they have been addressing the concerns they heard.

Dan Erpenbach commented on the congestion at the intersection of Tualatin Sherwood Road and Hwy. 99W and said 50,000 people go through in a day and noted that the undeveloped property will develop with that much exposure. He said in the past the County and City have been chasing traffic demands and now have an opportunity to get a head of the curve and put a plan on paper to help development in this area. He said Washington County is proposing a 4 pronged approach to this area: widening Tualatin Sherwood Road, putting in an Intelligent Transportation System, managing access and creating off-corridor circulation. He said there is no single solution but combining them will help reduce the congestion. He stated this amendment will manage access and create off-corridor circulation.

Mayor Middleton opened the public hearing.

Jim Claus, 22211 SW Pacific Hwy came forward and said Walmart has the lowest income of any mass merchandiser and the lowest expenditure per trip. He referred to drawing traffic from 15 miles and particularly during the holidays. He stated there are 7 basic origin destination trips that you learn in traffic engineering and this is not developing around them, to and from work trips you have now this is creating an entirely new origin of destination trip. He said you are changing the fundamental traffic. He said you have a much further trip in and are changing your profile. He stated the fact is with Walmart coming in we now have a traffic problem. He noted the problem will expand and this is late in the day to begin to change the traffic patterns in this town. He commented on changing the profile of the intersection. He referred to comments that it will develop and said it may put people out of business.

With no further comments Mayor Middleton closed the public hearing. With no discussion from the Council the following motion was received.

**MOTION: FROM COUNCIL PRESIDENT HENDERON TO READ CAPTION AND ADOPT ORDINANCE 2014-004, SECONDED BY COUNCILOR FOLSOM, MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Mayor Middleton called for recess at 8:33 pm and reconvened at 8:45 pm.

Mayor Middleton addressed the next agenda item.

**B. Ordinance 2014-005 Approving an amendment to the Transportation System Plan and Comprehensive Plan regarding extension and designation of SW Baler Way north of Tualatin-Sherwood Road**

Brad came forward and provided the Council with a presentation (see record, Exhibit D). He said this was also heard at the December 10<sup>th</sup> meeting and continued to the 28<sup>th</sup> to give the opponent some additional time to provide information and discuss with the County. He said this is a proposal from the County to extend SW Baler Way north and ultimately there would be a local connection continuing north to tie near Home Depot and the collector would turn and come back to Langer Farms Parkway and connect into a collector system that would run parallel to Tualatin Sherwood Road in the future at Barrows. He said the properties are zoned commercial and light industrial with the PUD for phase 4 of Langer Family PUD. He referred to the intersection of Arrow and Olds Place and said Arrow would be the connection that ultimately could eventually tie into Galbreath and go on up to 124<sup>th</sup> or Cipole. He said that would be the logical location. He said the County provided the application to provide access to

the properties and commented on the discussion of the signal being removed but said the point is to do a collector and provide alternative access to the properties north by doing a collector around the back of Sentinal Storage and to eventually tie into Langer Parkway north which would provide access to the properties north. He commented on the Adams Avenue concept plan that was considered in 2009. He said there is potential for those properties to develop but they will also have to deal with power line restrictions and easements. He commented on the zoning and said it makes sense to serve them with a collector system. He stated the traffic engineers estimated 6,000 average daily trips for this area and asked why more than the other side of 99W and said they don't anticipate intense development on the other side because of the power line restrictions and everything that is going on in that area. He stated the Planning Commission recommends the Council hold a public hearing and place the proposed local collector street on the City's TSP to give access to the properties and as a safety precaution to provide circulation off Tualatin Sherwood Road. He asked for Council questions.

Council Langer recused himself from participating and said the proposed road extension could be designed and constructed adjacent to property that is owned by his family and could result in a pecuniary benefit to himself or members of his family said although this is only a potential conflict of interest and does not require that he recuse himself, he is stepping down because he believes the public process should be free of any appearance of impropriety and will be better served if he does not participate.

Mayor Middleton asked the applicant to come forward. Ms. Slyman and Mr. Erpenbach came forward and stated they have nothing further to add but reiterated that this TSP amendment is also part of the County's four pronged approach to helping improve safety and capacity on Tualatin Sherwood Road.

Mayor Middleton opened the public hearing.

Phil Grillo came forward as a representative for TakFal Properties and said in order to be brief he referred to the January 28 letters he submitted to the Planning Commission and said that is still their position. He said they have been communicating with the County on this issue and but are of the understanding that the County is not willing to have any future discussion and they are now at a standstill. He said they may be agreeable to the improvement he is suggesting for the connection to Baler but maybe not amenable to helping with the connection they are requesting with Hwy 99. He commended the Council and staff for encouraging ODOT to work with them and discussed his interactions with ODOT regarding the right-in off Hwy 99 and said that ODOT Region 1 seemed agreeable to the right-in only access. He said there is a notion that this can be decided later and the problem with that is that with TPS amendments to properties already developed and projects that significantly change the existing access there is no new land use process for a hearing and it will just go into a condemnation proceeding where it will just be a discussion between us and the County and the County will decide what to do. He said that is why it is important when land use issues and transportation issues come together you need to flush out the details now. He said they are not trying to get to a design element but to a conceptual understanding of what will happen and said they have provided reasonable conditions of approval. He mentioned the LUBA case is still pending and they were expecting a decision on the 12<sup>th</sup> and LUBA has asked for a two week continuance and they expect a decision on the 26<sup>th</sup>.

Ty Wyman approached the Council as an attorney for MGPX Properties, LLC. He said he was here before the Council 6-8 months ago speaking on behalf of the Sherwood Market Center, then owned by Regency Centers, a National Real Estate Investment Trust. Mr. Wyman explained the chain of real estate ownership and their investments.

MGPX's owners were unable to attend tonight but did attend the Planning Commission meeting and have met with staff from Washington County. He noted that they purchased the property and knew it was at a cross roads but they wanted to invest in this community. He echoed Mr. Grillo's comments and stated that there is no time pressure as it is a legislative enactment and reminded the Council of the pending LUBA decision. He stated this decision is based on the premise of removal of a traffic signal. He said removal of the signal is not a foregone conclusion and the signal is shown in the existing TSP. He said we need to have that process first. He asked why do we need to decide now where in 8 days we will have the LUBA decision about the legality of the sign removal premise.

Jim Claus, 22211 SW Pacific Hwy approached the Council and stated that people are objecting to a procedural thing. He referred to certain rules not being enforced. He said it is easy to trace how the rules are being interpreted differently. He commented on procedural due process which means the rules need to apply evenly. He said the rules are being changed based on the individuals involved. He said litigation is inevitable. He commented on the Community Center and the water line disaster.

With no further public comments Mayor Middleton asked the County for a rebuttal.

Ms. Slyman and Mr. Erpenbach came forward with a rebuttal and referred to Mr. Grillo's comments about the conceptual design for access off of Baler to be part of the TSP amendment and argued that it is not relevant and those decisions will happen later. She commented that it is increasing opportunities for access to the property. She referred to the comments that Baler is premised on the signal removal and said it is not and the signal removal is part of a separate Washington County Tualatin Sherwood Road widening project. She said this TSP amendment is to promote better circulation and access off of Tualatin Sherwood Road and waiting for a LUBA decision is not an issue.

Mayor Middleton closed the public hearing and asked for Council comments.

Councilor Butterfield asked Brad to comment on the Planning Commission's decision. Brad said there were two fundamental questions that were considered. He said first, would this be a viable option whether the signal is removed or not and they decided it would be an alternative as there still has to be a connection to those properties. He said the question is does it warrant a collector or a local street and he said the County made the case with traffic numbers to make it a collector and he said Baler is a collector too so that makes sense. He commented on access to the properties and stated that access is not discussed in the TSP. He said that in the future if this signal comes out and as part of the right away decision there may be opportunities to consider this again.

Councilor Clark asked if there is a proposed light at the intersection of Adams Avenue/Baler Way and Tualatin Sherwood Road. Brad said yes. Councilor Clark asked if they were proposing a new light there. Brad said there is an existing light there. Councilor Clark asked what the distance is between these two intersections. Brad said maybe between 500-600 feet.

Councilor Henderson referred to a map on page 158 of the packet and asked how the County's proposed right-in right-out would benefit the businesses to the west of Les Schwab regarding access. Brad responded that there is an easement across the back property and noted there is a need for at least two accesses. He commented on options for other access and said there will be considerations the City will have with the Fire District regarding access for fire, life and safety. Discussion followed about access and easements for the existing businesses in the area.

Bob Galati said strictly for the TSP it provides connectivity for the Baler Way extension and also sets the east west connection with Arrow Street which is also part of our current plan for a north bypass part of

the whole system. He said we understand that the extension of the roadway is necessary and part of the roadway improvement project to offset the impacts of the removal of the signal. He said the concept of not providing it as part of the plan is not there and said they see it as a necessary component of the future design of the roadway improvement project. He stated it is not a question of if it will be built it will probably need to be part of the mitigation for the removal of the signal. He said the roadway will probably be built into the site so that access to the site will be mitigated for the removal of the light but he does not see extending east towards Langer Farms Parkway at this time but said as development occurs, and it will with access, the development will extend the road so we will get the road as development occurs beyond what it is now. He said there are two aspects. He stated this meets the requirement and criteria for a TSP amendment and the other items more specific to the design of the roadway are not to be part of this process and will be mitigated later.

Julia reiterated there are two separate issues, the TSP amendment that identifies the road and helps facilitate the discussion about mitigation but it is not the mitigation. She said as the County mentioned it is the four-pronged solution for congestion on Tualatin Sherwood Road. She said it is just having the line on a map that helps them move forward to build something.

With no other comments or questions from the Council the following motion was received.

**MOTION: FROM COUNCIL PRESIDENT HENDERSON TO READ CAPTION AND ADOPT ORDINANCE 2014-005, SECONDED BY COUNCILOR BUTTERFIELD. MOTION PASSED 6:0, (COUNCILOR LANGER RECUSED).**

Mayor Middleton addressed the next agenda item.

## **9. CITIZEN COMMENTS**

Steve Hofthouse came forward to discuss the possibility of a dog park and asked how to go about presenting the issue. Councilor Butterfield thanked him for coming to the meeting and said next month Mayor Middleton will be attending the Parks and Recreation Board meeting and there will be a discussion of how to proceed. Discussion followed about site selections and other ideas. Mayor Middleton said that he will send out a reminder to those interested.

Jim Claus, 22211 SW Pacific Hwy came forward and discussed the request to comment form. He commented on the legality and the grammar used. He commented on the City and legal counsel conspiring to violate the 14<sup>th</sup> amendment. The commented regarding the language of impugning the character of people. He commented regarding anytime someone complains the Council can throw them out based on content. He commented regarding the 4 minute time limit to speak with a Council 1 minute option. He commented regarding the Council being able to preclude comments and the language being sloppy grammar.

Mayor Middleton addressed the next agenda item.

## **10. COUNCIL ANNOUNCEMENTS**

Councilor Folsom said the Cultural Arts Commission would like to know how Council would like them to support the new facility. She suggested a joint work session in the future perhaps May or June.

Councilor Langer announced that the new Mathnasium is open. He said the YMCA Dine and Dash is the first week in March. He said the Chamber Annual Awards Dinner is earlier this year and the website has nomination information.

Councilor Henderson reported on the Charter Review Committee and asked the City Recorder Sylvia Murphy to discuss the new timeframe for approving ballot titles in order to have them in the May election.

Ms. Murphy said the Committee is proposing a joint work session with the City Council on Tuesday, February 25<sup>th</sup>. She stated new election law requires the Council to adopt ballot titles and have them to the City Recorder by February 28<sup>th</sup> by 5:00 pm in order to be eligible for the May ballot. She said they are proposing a joint work session to review the Charter Review Committee's work and if they come to a conclusion the Council may open a regular meeting, have a public hearing and adopt the proposed ballot titles. She noted that if they are unable to reach a conclusion, the Council will still have time before the February 28<sup>th</sup> deadline to potentially meet again.

Mayor Middleton reported that the Planning Commission will be bringing front yard setbacks before the Council in the future.

Mayor Middleton addressed the next agenda item.

## **11. CITY MANAGER AND DEPARTMENT REPORTS**

Mr. Gall said he has nothing further to report.

Mayor Middleton addressed the next agenda item.

## **12. ADJOURN**

Mayor Middleton adjourned the meeting at 9:30 pm.

Submitted by:

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Sylvia Murphy, MMC, City Recorder

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Bill Middleton, Mayor